

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

VIRGIL E. HOLT,)	NO. CV 15-5089-JVS (KS)
)	
Plaintiff,)	
)	
v.)	ORDER ACCEPTING FINDINGS AND
)	RECOMMENDATIONS OF UNITED
P. FINANDER, et al,)	STATES MAGISTRATE JUDGE
)	
Defendants.)	
)	
_____)	

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Second Amended Complaint, all of the records herein, Defendant’s Motion for Summary Judgment and the parties’ related briefing, the June 10, 2019 Amended Report and Recommendation of United States Magistrate Judge (“Report”), and Defendant’s Objections to the Report (“Objections”). The Court has also reviewed Plaintiff’s Objections, which state his non-objection to the Report.

Pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), the Court has conducted a *de novo* review of those portions of the Reports to which objections have been stated. Having completed its review, the Court accepts the findings and recommendations set forth in the Report, with the exception the following language at page 45, lines 12-13 of the Amended Report and Recommendation: “whether Plaintiff administratively exhausted his claim of deliberate indifference against Defendants,”. Accordingly, IT IS ORDERED that Defendant’s Motion for Summary Judgment is DENIED.

Further, the Court finds that the parties have fully presented and ventilated the issue of exhaustion, and therefore, the Court grants partial summary judgment in favor of Plaintiff on the issue of whether he has exhausted his administrative remedies with respect to his claims against each of the defendants. See Gospel Missions of Am. v. City of Los Angeles, 328 F.3d 548, 553 (9th Cir. 2003) (finding "a district court may enter summary judgment sua sponte against a moving party if the losing party has had a 'full and fair opportunity to ventilate the issues involved in the matter'" (quoting Cool Fuel, Inc. v. Connett, 685 F.2d 309, 312 (9th Cir. 1982))).

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Further, the parties' deadline for filing dispositive motions has passed. Therefore, the Court presumes this case ready to be set for trial and all further proceedings shall be before the District Judge assigned.

DATED: July 19, 2019



JAMES V. SELNA
UNITED STATES DISTRICT JUDGE